



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

September 27, 1996

Ms. Suzanne Schwartz
General Counsel
Texas Water Development Board
P.O. Box 13231
Austin, Texas 78711-3231

OR96-1786

Dear Ms. Schwartz:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 101192.

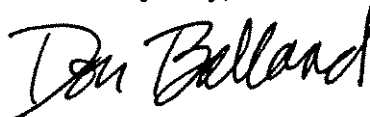
The Texas Water Development Board (the "board") received two requests for information. The requestor asks for "all documents developed by the staff of the Board or submitted to the Board by other interested persons that relate to the July 18, 1996 agenda," and all documents or information regarding a loan commitment proceeding in a bankruptcy court. You have submitted to this office those documents which you seek to withhold. You claim that certain parts of this information are excepted from required public disclosure by sections 552.103, 552.107, and 552.111 of the Government Code. We have considered the exceptions you claim and have reviewed the documents at issue.

You first claim that much of the information is protected by section 552.107. Section 552.107(1) excepts information that an attorney cannot disclose because of a duty to his client. In Open Records Decision No. 574 (1990), this office concluded that section 552.107 excepts from public disclosure only "privileged information." Thus, section 552.107 protects information that reflects either confidential communications from the client to the attorney or the attorney's legal advice or opinions; it does not apply to all client information held by a governmental body's attorney. *Id.* at 5. When communications from attorney to client do not reveal the client's communications to the attorney, section 552.107 protects them only to the extent that such communications reveal the attorney's legal opinion or advice. *Id.* at 3. In addition, basically factual communications from attorney to client, or between attorneys representing the client, are not protected. *Id.* We find that some the information you seek to withhold reveals the client's confidential communications or the attorney's legal advice or opinions. However, some of the information is purely factual and may not be withheld under this exception. We have marked the information that the board may withhold under section 552.107.

You also contend that two of the documents are protected from disclosure by section 552.111 of the Government Code. Section 552.111 excepts "an interagency or intraagency memorandum or letter that would not be available by law to a party in litigation with the agency." In Open Records Decision No. 615 (1993), this office reexamined the predecessor to the section 552.111 exception in light of the decision in *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408 (Tex. App.--Austin 1992, no writ), and held that section 552.111 excepts only those internal communications consisting of advice, recommendations, opinions, and other material reflecting the policymaking processes of the governmental body. Additionally, section 552.111 does not except from disclosure purely factual information that is severable from the opinion portions of internal memoranda. *Id.* at 4-5. After examining the two documents, we conclude that the board may withhold them under section 552.111. Because we make a determination under section 552.111, we do not address your claim under section 552.103 for one of these documents.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you questions about this ruling, please contact our office.

Yours very truly,



Don Ballard
Assistant Attorney General
Open Records Division

JDB/ch

Ref: ID# 101192

Enclosures: Submitted documents

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